

# **THE LEGISLATIVE PROCESS IN TEXAS**

## **INTRODUCTION**

The Legislature of the State of Texas is the state's lawmaking body. Its primary function is to enact laws to provide for the health, welfare, education, environment, and economic and general well-being of the citizens of Texas. It also establishes public policy through the passage of bills and resolutions and proposes amendments to the state constitution, which are then submitted to the voters for approval or disapproval.

Like most other states, Texas employs a bicameral system for its legislative branch of state government. The Texas Legislature consists of two separate chambers, a 31-member senate and a 150-member house of representatives. State senators and representatives are elected from single-member districts to serve four-year and two-year terms, respectively.

District boundaries were redrawn as required by law after the 1990 census, and each state senator now represents a senatorial district of more than half a million residents, while the average house district is composed of about 113,000 people. The rich diversity of Texas is mirrored in the composition of the two chambers as 181 men and women from all walks of life unite to represent the 18 million people of the Lone Star State.

In accordance with the Texas Constitution, the legislature meets in a regular legislative session in Austin every two years. By statute, the legislature convenes in a regular session on the second Tuesday in January of every odd-numbered year. These biennial sessions are limited to 140 days' duration. The constitution also allows the governor to call additional special sessions as necessary. During a called session, which cannot exceed 30 days, the legislature may consider legislation only on matters specified in proclamations issued by the governor.

## **POWERS AND DUTIES OF THE SPEAKER OF THE HOUSE**

The speaker is the presiding officer of the house of representatives. The Texas Constitution requires the house of representatives, each time a new legislature convenes, to choose one of its own members to serve as speaker.

As presiding officer, the speaker maintains order during floor debate, recognizes legislators who wish to speak, and rules on procedural matters. The constitution also requires the speaker to sign all bills and joint resolutions passed by the legislature. As a member of the house of representatives, the speaker may vote on all questions before the house.

The other duties and responsibilities of the speaker are determined by the members of the house in the house rules of procedure, which are adopted by a majority vote of the members at the beginning of each regular session of the legislature. The members give the speaker the authority to appoint the membership of each standing committee, subject to rules on seniority, and to designate the chair and vice chair for each committee. Under the rules, the speaker is responsible for referring all proposed legislation to committee, subject to the committee jurisdictions set forth in the rules. The rules also allow the speaker to appoint conference committees, to create select committees, and to direct committees to conduct interim studies when the legislature is not in session.

## **POWERS AND DUTIES OF THE LIEUTENANT GOVERNOR**

The Texas Constitution provides that the lieutenant governor shall serve as president of the senate, the presiding officer of that body. The lieutenant governor is elected statewide by the voters of Texas and is the second-highest ranking officer of the executive branch of government (the governor is the chief executive officer of the state).

However, as the presiding officer of the upper house of the legislature, the lieutenant governor wields substantial power over legislative matters. This is unlike the situation in the U.S. Senate, where the vice president of the United States serves ceremonially as the president of the senate. The lieutenant governor's power over legislative matters is derived from the senate rules of procedure adopted by the members of the senate at the beginning of each regular session of the legislature. The senate has given the lieutenant governor powers similar to those given to the speaker in the house rules of procedure. Under the senate rules, the lieutenant governor has the power to appoint senate committees and committee chairs and refer legislation to committees, in addition to the power to maintain order during floor debate, rule on procedural matters, and recognize senators who wish to speak. In the senate, the power to recognize members who wish to speak takes on added importance, as it is this power of recognition that determines the order in which bills will be considered on the senate floor. A notable difference between the powers of the two presiding officers is that the lieutenant governor, who is not a member of the senate, is permitted to vote on a question before the senate only in the case of a tie vote or when the senate is convened as a committee of the whole, whereas the speaker, as a member of the house

of representatives, may vote on all questions before the house.

## **BASIC LEGISLATIVE PROCESS**

### ***How a Bill Originates***

A legislator wishing to pass a bill may draft the legislation personally or obtain the professional staff services of the engrossing and enrolling department of the senate or the Texas Legislative Council, a legislative agency that provides bill drafting services, research assistance, computer support, and other services for legislators. Bills may also be prepared by attorneys retained for that purpose by organizations or individuals with a particular interest in certain legislation. All bills except for general appropriations bills are limited to a single subject.

A bill may also grow out of the recommendations of a special committee created by the legislature to conduct interim studies on specific issues of legislative interest. Interim committees are appointed by the presiding officers of the house and the senate, who also specify each committee's charge and any additional authority and duties necessary to carry out the charge. Interim study committees may consist entirely of members from one chamber or, in the case of a joint committee, of members from both the house and senate. A presiding officer may also appoint citizen members and other public officials of state and local governments to an interim committee to augment its legislative membership for the purpose of conducting a special study. A special study committee expires on the release of its final report or when the next legislature convenes, whichever occurs first.

### ***Introducing a Bill***

A bill may be introduced by any member of the legislature in the member's own chamber, and the steps in a bill's progress in each house are basically the same. A bill passed by one house must proceed to the other for final passage before going to the governor for approval or veto.

To introduce a bill in the house of representatives, a state representative must first submit the required number of copies of the bill for filing to the chief clerk of the house, who sequentially numbers each document according to the order in which it is received. The house rules of procedure permit unrestricted introduction of bills during the first 60 calendar days of each regular session. After the 60-day deadline, the introduction of any bill other than a local bill or a bill relating to a matter declared by the governor to be an emergency requires the consent of at least four-fifths of those members present and voting.

To introduce a bill in the senate, a senator must first submit the required number of copies of the bill to the secretary of the senate, who sequentially numbers each document according to the order in which it is received. The senate rules of procedure also permit unrestricted introduction of bills during the first 60 calendar days of each regular session. After the 60-day deadline in the

senate, the introduction of any bill other than a local bill or a bill relating to a matter declared by the governor to be an emergency requires the consent of at least four-fifths of the membership of the senate.

### ***The Role of Committees***

The size of the legislature and the volume of work confronting it each session make thoughtful deliberation on the many proposed measures by the entire membership impossible. For this reason, the basic business in both houses is conducted according to the committee system whereby permanent, general, and special bodies, determined and formed by the rules of the respective chambers, are appointed to consider bills introduced in the legislature and to advise on their disposition. The committee stage in the deliberative process is at the core of legislative politics since the fate of bills under consideration hinges on committee action. A large percentage of all legislation is never reported out of committee. Thus, committee action is the first crucial step in the process by which a bill becomes law.

### ***Referral to a Standing Committee***

The Texas Constitution provides that no bill may be considered on the floor of a chamber by its members unless the bill first has been referred to a committee and the committee has issued its report on the bill. When a bill is introduced or received from the opposite chamber for consideration, it is read for the first time by its caption and referred by the speaker or lieutenant governor to an appropriate committee. Known as standing committees, these bodies are created in the rules of the respective houses at the beginning of each regular session and typically consist of seven to 15 members.

In the house rules, each committee is assigned jurisdiction over a specific subject matter, and the speaker refers legislation to house committees based on those subject matter jurisdictions. In its rules, the senate does not provide subject matter jurisdictions for its committees. Although the lieutenant governor is free to refer legislation in the senate to any standing committee, unofficial subject matter jurisdictions are usually established and followed to prevent duplication of effort by committees.

In the house of representatives, the membership of committees is determined in part by seniority and in part by appointments by the speaker. Each representative sits on at least one committee, and most representatives sit on two or three committees. The house typically has approximately 30 standing committees.

In the senate, the membership of committees is determined entirely by appointment by the lieutenant governor. Senators typically sit on three or four committees each. The senate typically has approximately 10 standing committees.

Immediately after a bill has been referred to committee, a determination must be made as to whether a fiscal note or other impact statement is required and, if so, a copy of the bill is sent to

the Legislative Budget Board for preparation of the note or statement. In preparing the note or statement, the Legislative Budget Board may consult the state agencies affected by the legislation. In the house, the fiscal note must be attached to the affected bill before a public hearing on the bill may be held, and if the bill is reported from committee, the fiscal note must be attached to the bill when it is printed and distributed to the members of the house. With regard to other impact statements, a bill may proceed through the legislative process before the impact statement

is completed, but a copy of the impact statement must be distributed to the members as soon as it has been completed. Senate practice is for a copy of the fiscal note to be provided to the committee members before the bill is reported from committee and to be included as part of the senate committee report.

A bill requiring extensive analysis is often assigned to a subcommittee of the standing committee to which the bill has been referred. Subcommittee members are appointed by the committee chair from the standing committee's membership. After careful scrutiny of the bill under consideration, the subcommittee makes a report to the full committee.

### ***The Committee Process***

All committee business is required to be conducted in open meetings. No official action or vote may be taken except in a meeting that is open to the public. The house rules permit a house committee or subcommittee to meet: (1) in a public hearing where testimony is heard and where official action may be taken on bills, resolutions, or other matters; (2) in a formal meeting where the members may discuss and take official action without hearing public testimony; or (3) in a work session for discussion of matters before the committee without taking formal action. The senate rules do not provide for different types of meetings. Therefore, testimony may be heard and official action may be taken at any meeting of a senate committee or subcommittee.

Although a committee is not required to solicit public testimony on any bill referred to it, public testimony is almost always solicited on bills of outstanding importance, allowing citizens the opportunity to present arguments on different sides of an issue. In the senate, a public hearing must be held on a bill before it can be reported from committee.

A house committee or subcommittee holding a public hearing during a legislative session must post notice of the hearing at least five calendar days before the hearing during a regular session and at least 24 hours in advance of the hearing during a special session. If a house committee or subcommittee is convening for a formal meeting or a work session, written notice must be posted and transmitted to each member of the committee two hours in advance of the meeting or an announcement must be filed with the journal clerk and read in the house while the house is in session. A senate committee or subcommittee must post notice of a meeting at least 24 hours before the meeting.

### ***Committee Reports***

After considering a bill, a committee may choose to take no action or may issue a report on the bill to the house or senate. The committee report, expressing the committee's recommendations regarding house or senate action on a bill, includes a record of the committee's vote on the

report, the text of the bill as reported by the committee, a detailed bill analysis, a fiscal note or other impact statement, and other attachments as necessary.

The required parts of the committee report are assembled and printed and distributed to the members as a single document. Committee reports are advisory only and may take several forms. The committee may recommend passage of the bill without amendments, or it may recommend amendments to the bill or even substitute a new bill for the original document.

In the house, all committee reports are referred to the chief clerk, who forwards them to the printer. After being printed, a copy of the house committee report printing (which includes bill text, the committee's recommendation and vote on the bill, the bill analysis, the fiscal note, and other necessary impact statements and attachments) is placed in the post office box of each member of the house. The chief clerk then delivers a certified copy of the committee report to the appropriate calendars committee (the Committee on Calendars or the Committee on Local and Consent Calendars) for placement of the bill on a calendar for consideration by the full house. Calendars committees are given wide discretion in scheduling bills for floor action.

The senate rules also require committee reports to be printed. After being printed, a copy of the senate committee report printing (which includes bill text, the committee's recommendation and vote on the bill, the bill analysis, the fiscal note, and other necessary impact statements and attachments) is placed in the bill book on each senator's desk in the senate chamber. Except for the role of the Committee on Administration in scheduling local and noncontroversial bills for consideration, there is no equivalent to a calendars committee in the senate. The senate's regular order of business lists all bills and resolutions that have been reported favorably from committees in the order in which they were reported to the senate. For all practical purposes, the regular order of business is merely a listing of bills that are eligible for consideration, because the senate rules provide that a bill on the regular order of business may not be brought up for floor consideration unless the senate sponsor of the bill has filed with the secretary of the senate a written notice of intent to suspend the regular order of business for consideration of the bill.

### ***House Calendars and Lists of Items Eligible for Consideration***

**House calendars.** After a bill or resolution has been reported favorably by standing committee and the committee report has been printed, the chief clerk forwards the measure to the appropriate calendars committee for placement on a calendar. The house rules provide for four types of calendars:

(1) the Daily House Calendar, which contains a list of new bills and resolutions scheduled by the Committee on Calendars for consideration by the house and which must be distributed to the members 36 hours before the house may consider those measures (24 hours before the house convenes during special sessions);

(2) the Supplemental House Calendar (prepared by the Committee on Calendars), which must be distributed two hours before the house convenes and which may contain: (a) measures passed to third reading on the previous day; (b) measures on the Daily House Calendar for a previous day that were not reached for consideration; (c) measures on the Daily House Calendar for the current

day; (d) postponed business from a previous day; and (e) notice to call from the table a measure laid on the table subject to call on a previous day;

(3) the Local, Consent, and Resolutions Calendar, which must be distributed to the members 48 hours before the listed measures may be considered and which contains a list of local or noncontroversial bills scheduled by the Committee on Local and Consent Calendars for consideration by the house; and

(4) the Congratulatory and Memorial Calendar, which must be distributed 24 hours before those measures may be considered and which contains a list of congratulatory and memorial resolutions and motions scheduled by the Committee on Rules and Resolutions for consideration by the house.

The Supplemental House Calendar, because it includes the measures listed on the Daily House Calendar, is the primary agenda followed by the house during its deliberations. The Local Consent, and Resolutions Calendar and the Congratulatory and Memorial Calendar are special calendars that are prepared approximately once a week during the last half of a regular session. In addition to the four calendars listed above, the house rules provide for seven categories that in order of priority are the: (1) emergency calendar; (2) major state calendar; (3) constitutional amendments calendar; (4) general state calendar; (5) local calendar, consent, and resolutions calendar; (6) resolutions calendar; and (7) congratulatory and memorial resolutions calendar. Within each category, senate bills and resolutions are required to be listed on the calendars separately from house bills and resolutions, and consideration of senate bills and resolutions on senate bill days (Wednesdays and Thursdays) has priority in the order specified by house rule.

Except during the latter part of the regular session, when calendars become especially lengthy, the house normally considers all measures listed on its calendars before adjourning or recessing for the day.

**List of Items Eligible for Consideration.** This list is prepared by the chief clerk of the house, upon request of the speaker, when the volume of legislation warrants (normally during the last few weeks of a regular session). The list must be distributed six hours before it may be considered and contains: (1) house bills with senate amendments eligible to be considered; (2) senate bills for which the senate has requested the appointment of a conference committee; and (3) conference committee reports eligible to be considered.

### ***Senate Agenda and Intent Calendar***

**Senate agenda.** The Texas Senate agenda includes the following information: (1) notice of intent, giving the number, author or sponsor, and short caption for each measure that may be considered during the day's session; (2) list of senate bills returned from the house with amendments; (3) status of bills in conference committees, giving a short caption and brief history of the action on the bills; (4) local and uncontested bills calendar; (5) gubernatorial appointments to boards and commissions that have been reported favorably from senate standing committees and are awaiting confirmation by the senate; (6) committee hearings scheduled, including short captions for all measures scheduled to be considered by the committees; (7) regular order of business, listing all bills and resolutions that have been reported favorably from committees in

the order in which they were reported to the senate; and (8) senate floor action, giving the numbers and short captions for and action taken on all measures brought up for consideration during the previous legislative day. Copies of the senate agenda are available the morning of each legislative day.

**Intent calendar.** Senate rules require that bills and resolutions be listed on the regular order of business and be considered on second reading in the order in which committee reports on the measures are submitted to the senate. Traditionally, the senate adopts a further rule specifying that before a bill or joint resolution may be brought up for floor debate out of its regular order, Notice of Intent must be filed with the secretary of the senate by 4 p.m. on the last preceding calendar day the senate was in session. Senate rules direct the secretary of the senate to prepare a list of all legislation for which notice has been given. The list must be made available to each member of the senate and to the press not later than 6:30 p.m. on the day the notice is filed. A vote of two-thirds of the members present is additionally required before any of the measures brought up for consideration in the order listed on the Intent Calendar for a given day. A senator must give notice

from day to day in order for a measure that was not brought up for consideration to remain on the Intent Calendar.

### ***Floor Action***

The first real floor consideration of a bill occurs on its second reading. After it is read the second time, again by caption only, the measure is subject to debate and amendment by the entire membership of the chamber. On second reading, a bill may be amended by a simple majority. If no amendment is made, or if those proposed are disposed of, the final action on second reading of a bill is a vote on its passage to engrossment, if the bill is being considered in the chamber in which it was introduced, or passage to third reading, if the bill is being considered in the opposite chamber. The bill is then laid before the body for a third reading and final passage. A bill may be amended again on third reading, but amendments at this stage require a two-thirds majority for adoption.

Although the Texas Constitution requires a bill to be read on three separate days in each house before it can have the force of law, this constitutional rule may be suspended by a four-fifths vote of the house in which the bill is pending. In such cases, the bill is given an immediate third reading following the vote to pass the bill to engrossment or third reading. The senate routinely suspends this constitutional provision, in order to give a bill an immediate third reading. The house, however, rarely suspends this provision, and third reading consideration of a bill in the house normally occurs on the day following second reading consideration.

After a bill has been read a third time, it is voted on for final passage. If the bill receives a simple majority vote, it is considered passed, and the chief clerk of the house or the secretary of the senate, as appropriate, certifies the bill's final passage, noting on it the date of its passage and the vote by which it passed. When the bill is passed in the originating chamber, the bill is engrossed, and an exact and accurate copy of the bill, with all corrections and amendments incorporated into it, is prepared and sent to the opposite chamber for consideration. When the bill is passed in the

opposite chamber, a new copy of the bill is not prepared. Rather, the bill is immediately returned to the originating chamber with any amendments simply attached to the bill.

### ***Consideration of Local and Noncontroversial Bills***

The house and senate rules both provide for special calendars for the consideration of local and noncontroversial bills. The calendar used for consideration of these bills in the house is the Local, Consent, and Resolutions Calendar, which is set by the Committee on Local and Consent Calendars. A standing committee may recommend, when reporting a bill or resolution, that the measure be sent to the Committee on Local and Consent Calendars for placement on an appropriate calendar. Such a recommendation requires the unanimous consent of all the committee members present when the measure is reported from committee. Measures that are local are defined by the house rules and bills and resolutions to which no opposition is anticipated. If it determines that a measure is not eligible for placement on the Local, Consent, and Resolutions Calendar, the Committee on Local and Consent Calendars has the power to transfer the measure to the Committee on Calendars. Local, Consent, and Resolutions Calendars are normally prepared for consideration by the house once a week during the last half of the regular session. These calendars are normally lengthy, but consideration of them is expedited because debate is limited and amendments to measures on the calendars may not be offered unless they have first been approved by the Committee on Local and Consent Calendars. A measure may be removed from the Local, Consent, and Resolutions Calendar if debate exceeds 10 minutes or if five or more representatives object to the consideration of the measure.

The calendar used for consideration of local and noncontroversial bills in the senate is the Local and Uncontested Calendar, which is set by the Committee on Administration. A measure may not be considered by the Committee on Administration for placement on the Local and Uncontested Calendar unless both the sponsor of the measure and the chair of the committee from which the measure was reported file a written request for placement on the Local and Uncontested Calendar with the Committee on Administration. Measures that are eligible for consideration by the Committee on Administration are bills that are local as defined by the senate rules and bills and resolutions to which no opposition is anticipated. Local and Uncontested Calendars are normally prepared for consideration by the senate once or twice a week during the last half of the regular session. Measures on the Local and Uncontested Calendar may be considered without a suspension of the regular order of business, which is normally required for consideration of legislation in the senate. As in the house, consideration of Local and Uncontested Calendars in the senate is expedited because the measures on these calendars are not normally debated and amendments to measures on these calendars are prohibited. A measure may be removed from the Local and Uncontested Calendar if two or more senators object to the consideration of the measure.

### ***Return of a Bill to the Originating Chamber—Action on Amendments***

After a bill has passed through three readings in the opposite chamber, the bill is sent back to the originating chamber and, if there have been no amendments, the bill is enrolled. The enrolled bill is then signed by both presiding officers in the presence of their respective chambers and sent to the governor. When a bill that has been amended by the opposite chamber is returned to the originating chamber, the originating chamber must concur with all of the amendments made by the opposite chamber before the bill can be enrolled. If the originating chamber does not concur with any or all of the opposite chamber's amendments, it may request the appointment of a conference committee to resolve the differences between the house and senate versions of the

bill.

### ***Conference Committee***

If a conference committee is called for, the two presiding officers appoint five members each from their respective chambers to serve on the committee. The senate rules require that at least two of the senate conferees be members of the senate committee from which the bill was reported. A conference committee's charge is limited to reconciling differences between the two houses, and the committee, unless so directed, may not alter, amend, or omit text that is not in disagreement. Nor may the committee add text on any matter that is not in disagreement or that is not included in either version of the bill in question. After the committee has met and reached an agreement, a report is submitted to both houses for approval or disapproval. The report must be approved by at least three conferees from each house and must contain the text of the bill as approved by the conference committee, an analysis comparing the text of the compromise bill to both the house and the senate versions, and the signatures of those members of the conference committee who approved the report. A conference committee report is not subject to amendment but must be accepted or rejected in its entirety.

Should the proposed compromise remain unacceptable to either house, it may be returned to the same conference committee for further deliberation, with or without specific instructions, or the appointment of a new conference committee may be requested. Failure of the conference committee to reach agreement kills the measure. If the conference committee report is acceptable to both houses, the bill is enrolled, signed by both presiding officers in the presence of their respective chambers, and sent to the governor.

### ***Governor's Action***

Upon receiving a bill, the governor has 10 days in which to sign a bill, veto it, or allow it to become law without a signature. If the governor elects to veto the bill and the legislature is still in session, the bill is returned to the house in which it originated with an explanation of the governor's objection. A two-thirds majority in each house is required to override the veto. If the governor neither vetoes nor signs the bill within the allotted time, the bill becomes law. If a bill is sent

to the governor within 10 days of final adjournment, the governor has until 20 days after final adjournment to sign the bill, veto it, or allow it to become law without a signature.

## **OTHER LEGISLATION--RESOLUTIONS**

A resolution is a legislative document used to express the collective will of the members of the legislature or of either house. Resolutions are used to handle specific activities of the legislature and are commonly used to propose amendments to the Texas Constitution, take care of housekeeping functions, convey congratulations or condolences to individuals or groups in the state, express legislative intent, express an opinion or sentiment on matters of public interest, give direction to a state agency or official, or call upon certain governmental agencies, offices, or units such as the U.S. Congress to take a specific course of action. They are legislative instruments that must be introduced, assigned numbers, and acted on by the legislature. Except for concurrent resolutions, the governor need not sign and cannot veto them. There are three types of resolutions: joint resolutions, concurrent resolutions, and simple resolutions.

### ***Joint Resolutions***

Joint resolutions are used to propose amendments to the Texas Constitution, ratify proposed amendments to the U.S. Constitution, or request a constitutional convention to propose amendments to the U.S. Constitution. Joint resolutions proposing amendments to the Texas Constitution require a vote of two-thirds of the total membership of each house for adoption. Other joint resolutions require a simple majority vote in each house for adoption. A joint resolution takes the same course through both houses as a bill and is like a bill in all respects, except that, in the house, if it receives the required number of votes at any reading after the first reading, the resolution is passed. Three readings are still required to pass a joint resolution in the senate. Joint resolutions passed by the legislature are not submitted to the governor for signing

but are filed directly with the secretary of state. An amendment to the Texas Constitution proposed by an adopted joint resolution does not become effective until it is approved by Texas voters at a general election.

### ***Concurrent Resolutions***

A concurrent resolution is used when both houses have an interest in a particular matter. Such resolutions may originate in either house but must be adopted by both. A concurrent resolution passed by both houses may be used for matters affecting operations and procedures of the legislature such as joint sessions or adjournment sine die. Frequently, concurrent resolutions are used to memorialize the U.S. Congress, give directions to a state agency or officer, or express views of the legislature. Concurrent resolutions, except those that pertain solely to procedural matters between the two houses, must be submitted to the governor for approval.

### ***Simple Resolutions***

House or senate resolutions pertain to matters considered by the house of origin only. Numbered separately from other types of resolutions or bills, they are used for such purposes as adopting or changing rules of procedure or expressing congratulations or condolences.